

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

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| Case No. | ED CV 09-2165 AHM (VBKx) | Date | December 28, 2009 |
| Title | CAROL MULSTAY v. BANK OF AMERICA, N.A., <i>et al.</i> | | |

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|--|-------------------------------------|--|----------|
| Present: The Honorable | A. HOWARD MATZ, U.S. DISTRICT JUDGE | | |
| Stephen Montes | Not Reported | | |
| Deputy Clerk | Court Reporter / Recorder | | Tape No. |
| Attorneys NOT Present for Plaintiffs: | | Attorneys NOT Present for Defendants: | |

Proceedings: IN CHAMBERS (No Proceedings Held)

On November 23, 2009, Defendants Bank of America, N.A. and BAC Home Loans Servicing, LP removed this action on the basis of federal question jurisdiction under 28 U.S.C. § 1441(a). Defendants contend that Plaintiff's suit is "founded on claims arising under federal laws." Notice of Removal ("NOR") ¶ 4. However, the Complaint only mentions federal laws in passing, stating that the "full details of these violations [of federal law] are presently unknown to Plaintiff, however, when these facts are ascertained through discovery and investigation, this complaint will be amended with leave of court to allege those facts." Complaint ¶¶ 17, 18, 21. The actual causes of action in Plaintiff's Complaint are based explicitly on California law. *See, e.g.*, Complaint ¶¶ 25, 86.

A federal court must determine its own jurisdiction even if there is no objection to it. *Rains v. Criterion Sys., Inc.*, 80 F.3d 339 (9th Cir. 1996). Jurisdiction must be determined from the face of the complaint. *Caterpillar, Inc. v. Williams*, 482 U.S. 386 (1987). A federal court has jurisdiction over claims "arising under" federal law. 28 U.S.C. § 1331. A court may *sua sponte* remand a case to state court for lack of subject matter jurisdiction without briefing or hearing if the lack of jurisdiction is clear. *Cooper v. Washington Mut. Bank*, 2003 WL 1563999 (N.D. Cal. 2003); 2 Schwarzer, Tashima & Wagstaffe, *Cal. Prac. Guide: Fed. Civ. Pro. Before Trial* § 1092 (The Rutter Group 2009).

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It is clear that the Complaint on its face does not present a federal question, and so the Court REMANDS this case to the Superior Court of California, County of Riverside.

Initials of Preparer _____ : _____
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